

In the Matter of:

RM-9419)

The proposal for AM use of FM)

Translators to Allow Daytime AM's)

Limited Full-time Signals)

RM-9419

COMMENTS OF:

Elvis L. Moody

JEM Broadcasting Company, Inc.

1101 South Walton

Bentonville, Arkansas 72712

These comments are filed by Elvis L. Moody, President of JEM Broadcasting Company, Incorporated, in response to the Notice of Proposed Rulemaking in RM 9419. These comments are in support of the proposal. Reply comments or questions concerning the enclosed comments should be forwarded to the above address.

The commentator has first hand experiences of the limitations of daytime AM stations. Since constructing daytime only KESE in 1979 the JEM has endured multiple changes by the FCC in the rules relating to the gaining of a fulltime FM facility to operate with KESE licensed to Bentonville/Bella Vista, Arkansas. First, JEM amended the FM table of Assignments to allocate channel 252A to Bentonville, Arkansas as it's first fulltime facility only

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to lose the case in a comparative hearing in which the single opposing applicant was selected due to the ownership of the daytime AM by JEM Broadcasting Company. That group operated the FM for a couple of years and then sold out to a larger group. The Commission then created the "Daytimer Preference" and JEM Broadcasting Company then amended the Table of Allocations again during Docket 80-90, and this time found it's application dismissed by the Commission under "Hard-Look" processing when the consulting engineer transposed one set of geographical coordinates on the engineering section. This was appealed through the Circuit Court of Appeals to no avail when the Court ruled that while the Commission did not go through proper rulemaking procedure JEM did not appeal the rule within the time allowed, even though JEM was not an aggrieved party until the application was dismissed almost two years after the adoption of "Hard Look." JEM then allocated the final FM channel available in the market and drew three additional applicants. The "Bechtel" case then resulted in the cancelling of the comparative hearing that had been scheduled. JEM along with three other applicants is now awaiting auction per the Commission's new auction rules that have chosen to offer no benefit to daytime only AM's.

At the same time as the Commission was denying the efforts of JEM to add a local FM, the market has gone through massive consolidation with the result of two major national owners soon to own virtually all the fulltime facilities in the Northwest Arkansas Market: After closing of pending sales the market ownership will be as follows:

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Chancellor Broadcasting

KEZA 100Kw

KKIX 100kw

KJEM 100kw

KMXI 50Kw

Cumulus Broadcasting

KMCK 100Kw

KFAY FM 100kw

KAMO FM 50kw

KKEG 25Kw

KFAY (AM) 10kw day 1kw night

KZRA (AM) 2.5k day

This leaves only a few remaining fulltime facilities that are not part of the two large group owners:

KBVA 50KW FM

KDAB 50KW FM

KBRS 6KW FM

KREB 25KW FM

KURM 5KW Day AM .5KW Night

Offering service to the local community is almost impossible in today's consolidated environment, for the Commission to even consider creating a new low power broadcasting service without first solving the problem of daytime broadcasters shows a complete disrespect for local broadcasters who have served their local communities under the hardship of daytime only status. The need for relief for daytimers is obvious.

The proposal to allow daytime AM's to offer limited fulltime service should be subject to the following conditions:

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1. Each daytime AM station should be allowed to apply for and operate an unlimited number of FM translators on a single frequency within its 5mv/m daytime signal. Translators could be synchronized to allow the use of a single frequency conserving spectrum for other users.
2. The translators should be required at all times the daytime AM station is operating to simulcast the primary AM station. They should not under any circumstances be allowed to separate programming.
3. The use of FM translators for daytime AM's should be restricted to those with no nighttime power in excess of 249 watts, in effect to prohibit the use to AM's operating with licensed fulltime power.
4. The Commission should develop a simple procedure to allow for the granting, construction and licensing of FM translators for daytime AM's. To delay a service for years is a disservice to the public and an inefficient use of the spectrum.
5. Translators should be granted on a descending order to make the most efficient use of the spectrum, with auctions required only in the event there are not enough available frequencies to satisfy the needs of each daytime AM. That order should be as follows:
 - a) Daytime AM's with no fulltime power of any power level
 - b) Daytime AM's with less than 100 watts of fulltime power level
 - c) Daytime AM's with less than 249 watts of fulltime power level
6. Translators should be licensed with the daytime AM facility and protected from displacement by other rulemakings unless a comparable channel were located as is the current

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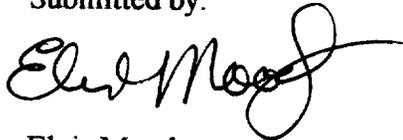
case in FM rulemaking proceedings for full power FM allocations.

7. Translators should be allowed in the commercial band, and only if no commercial band frequency is available would FM translators of daytime AM's be allowed in the educational band.

8. To allow the quickest implementation of fulltime service the Commission should require by form an application from any interested daytime AM, requiring the proof of qualifications and upon granting of the permit to add FM translator service, an engineering application showing the location, power and coverage area of any proposed translators to be licensed.

In summary, before the Commission considers creating a new class of low power FM stations it should first take steps to solve the problems of existing daytime broadcasters who in today's increasingly consolidated environment have been left without fulltime service, and their communities without a fulltime voice. This proposal offers a simple, quick and inexpensive way to resolve that hardship.

Submitted by:



Elvis Moody

President, JEM Broadcasting Co. Inc.

1101 South Walton Boulevard

Bentonville, Arkansas 72712

December 28, 1998

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Elvis Moody, President
JEM Broadcasting Company, Inc.
1101 South Walton
Bentonville, Arkansas 72712

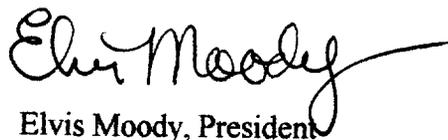
Office of the Secretary
Federal Communications Commission
1919 "M" Street, N.W.
Room 222
Washington, D.C. 20554

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Please find enclosed the original and four copies of the comments of JEM Broadcasting Company, Incorporated in the matter of RM-9419,

Should there be any questions or reply comments in connection with the enclosed, please forward to the above address.

Submitted by;


Elvis Moody, President

JEM Broadcasting Co., Inc.

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